

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 05-00046-02 JMS
)	
Plaintiff,)	ORDER GRANTING MOTION FOR
)	REDUCTION OF SENTENCE
vs.)	PURSUANT TO FEDERAL RULE
)	OF CRIMINAL PROCEDURE 35(b)
CARLOS ALBERTO GARCIA,)	
)	
Defendant.)	
_____)	

**ORDER GRANTING MOTION FOR REDUCTION OF SENTENCE
PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 35(b)**

On November 1, 2007, the United States filed a motion seeking an order from this court reducing the sentence of defendant Carlos Alberto Garcia (“Defendant”) pursuant to Federal Rule of Criminal Procedure 35(b).

Rule 35(b) provides:

(1) In General. Upon the government’s motion made within one year of sentencing, the court may reduce a sentence if: (A) the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person; and (B) reducing the sentence accords with the Sentencing Commission's guidelines and policy statements.

(2) Later Motion. Upon the government’s motion made more than one year after sentencing, the court may reduce a sentence if the defendant’s substantial assistance involved: (A) information not known to the

defendant until one year or more after sentencing; (B) information provided by the defendant to the government within one year of sentencing, but which did not become useful to the government until more than one year after sentencing; or (C) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing and which was promptly provided to the government after its usefulness was reasonably apparent to the defendant.

On July 19, 2006, Defendant was sentenced to 135 months of incarceration. Although the United States' Rule 35(b) motion was filed more than one year after sentencing, the United States explains that Defendant provided information to the United States within one year of sentencing, but that information did not become useful to the government until more than one year after sentencing. The motion is thus timely pursuant to Rule 35(b)(2)(B).

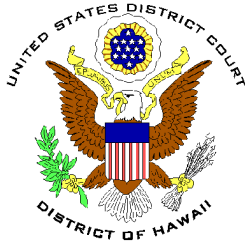
The United States' motion demonstrates that Defendant provided substantial assistance in the investigation and prosecution of another individual. According to the United States, Defendant provided information regarding Damien Hina, including testimony before a grand jury. Defendant's testimony led, at least in part, to Hina's indictment and subsequent decision to enter a plea of guilty on August 29, 2007.

Based on the representations made by the United States, the court GRANTS the United States' Motion, and hereby orders that Defendant's original

sentence of 135 months imprisonment be reduced by 36 months to a new sentence of 99 months imprisonment.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, November 27, 2007.



/s/ J. Michael Seabright

J. Michael Seabright
United States District Judge

United States v. Garcia, Criminal No. 05-00046-02 JMS; Order Granting Motion for Reduction of Sentence Pursuant to Federal Rule of Criminal Procedure 35(b)